

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

In re:

GMS Sunset LLC

Debtor.

Case No. 23-11315-KHK

Chapter 11

**Hearing: Tuesday, November 19, 2024
12:00 p.m.**

Second Motion of United States Trustee to Dismiss or Convert Case to Chapter 7

Comes Now, Gerard R. Vetter, Acting United States Trustee for Region 4, and moves this Court to convert this case to Chapter 7 or dismiss this case, whichever is in the best interests of the creditors and the estate.

In support hereof, the U.S. Trustee states as follows:

1. This Court has jurisdiction to hear and decide this matter. 28 USC § 1334.
2. This is a core proceeding. 28 USC § 157(b)(2)(A).
3. On August 17, 2023, the Debtor filed a petition for relief under Chapter 11. Docket No. 1, page 2, question no. 8.
4. The Debtor's primary asset is one piece of real estate located at 294 Sunset Park Drive, Units 11 and 12, Herndon, VA 20170.
5. The property is leased to the Amphora Bakery.
6. The Debtor has no full or part time employees. June Monthly Operating Report, Docket No. 89.
7. The Debtor has been unable to confirm a plan of reorganization.

Argument

The Court, on the request of a party in interest, shall convert or dismiss a Chapter 11 case for cause, whichever is in the best interests of the creditors and the estate. 11 U.S.C. § 1112(b)(2).

The Debtor has been in bankruptcy for over a year and has failed to confirm a plan of reorganization. The failure to confirm a plan of reorganization is “cause” to dismiss or convert a case. Askri v. Fitzgerald, 612 B.R. 500, 503 (E.D. Va.), aff’d sub nom. In re Askri, 813 F. App’x 144 (4th Cir. 2020).

The Acting United States Trustee cannot identify unusual circumstances establishing that converting or dismissing this case is not in the best interests of the creditors and the estate.

WHEREFORE, the Acting United States Trustee requests that this Court enter an order converting or dismissing this case, whichever is in the best interests of the creditors and the estate.

Dated: September 13, 2024

Gerard R. Vetter
Acting United States Trustee for
Region Four

/s/ Jack Frankel
Jack Frankel, Attorney
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Certificate of Service

I hereby certify that on September 13, 2024, I mailed, United States mail, first class, postage fully prepaid, a copy of the motion to dismiss or convert and notice of motion and hearing to the Debtor, GMS Sunset, LLC, 1141 Elden Street, Ste. 224, Herndon, VA 20170, and emailed to the Debtor's attorney Nathan A. Fisher, Email: Fbarsad@cs.com.

/s/ Jack Frankel